

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department – Telangana State – Bhadradri Kothagudem District – Revision Petition filed by Sri Tannereu Venkateswarlu S/o Ramaiah R/o Maddukuru village, Chandrugonda Mandal, Bhadradri Kothagudem District (erstwhile Khammam District) against the orders of the Additional Agent to Government, Bhadrachalam in CMA No.9/2004, dated 18.11.2006 and the Agency Divisional Officer, Kothagudem in LTR case No.171/97/CHG, dated 15.10.2003 and in respect of land admeasuring acs.2.27 gts in Sy.No.5/AA situated in Damaracherla village of Chandrugonda Mandal, Bhadradri Kothagudem District (erstwhile Khammam District) – ALLOWED – Orders – Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No.57

Dated:07.10.2023.
Read the following:-

1. Orders of the Agency Divisional Officer, Kothagudem in LTR case No.171/97/ CHG, dated 15.10.2003.
2. Orders of the Additional Agent to Government, Bhadrachalam in CMA No.9/2004, dated 18.11.2006.
3. Revision Petition filed by Sri Tanneru Venkateswarlu S/o Ramaiah, erstwhile Khammam District, dated 20.1.2007.
4. Orders of the Hon'ble High Court Judicature, Andhra Pradesh at Hyderabad in WP No.1281/2007, dated 23.1.2007.
5. Govt.Memo.No.826/TW.LTR/2007-1, dated 22.6.2007.
6. From the Addl.Agent to Govt. Bhadrachalam,RP.No.826/LTR-2/2007-1 (CMA.No.09/2004), dated 29.09.2008.
7. Govt.Letter.No.826/LTR-2/2007, dated 09.02.2015, 18.03.2015, 26.07.2016, 27.10.2016,03.01.2017, 01.03.2017, 31.03.2017, 12.05.2017 & 22.07.2017.
8. Vakalat filed by Sri S.R.Madhava Rao, Counsel on behalf of Revision petitioner 03.12.2016.
9. Govt.NoticeNo.826/TW.LTR/2007, dated 27.10.2020.
10. Written arguments submitted by Counsel for Revision Petitioner dated 9.11.2020.

* * *

O R D E R:

In the reference 3rd above, Sri Tannereu Venkateswarlu S/o Ramaiah R/o Maddukuru village, Chandrugonda Mandal, Bhadradri Kothagudem District (erstwhile Khammam District) has filed Revision Petition along with Stay Petition through his Counsel before the Government under Section 6 of the AP Scheduled Areas Land Transfer Regulation 1/1959 aggrieved by the orders of the Additional Agent to Government, Bhadrachalam in CMA No.9/2004, dated 18.11.2006 and the Agency Divisional Officer, Kothagudem in LTR case No.171/97/CHG, dated 15.10.2003 and in respect of land admeasuring acs.2.27 gts in Sy.No.5/AA situated in Damaracherla village of Chandrugonda Mandal, Bhadradri Kothagudem District (erstwhile Khammam District), the history of the case is as follows:

2. Initially LTR case No.171/97/CHG was registered by the Agency Divisional Officer, Kothagudem on the report of Special Deputy Tahsildar (Tribal Welfare) Palvanha between SVL Narasimha Rao R/o Damaracherla (v), Chandrugonda Mandal as proforma-petitioner and Sri Tanneru Venkateswarlu S/o Ramaiah R/o Maddukoor (v) of Chandrugonda Mandal as Respondent in respect of land admeasuring acs.2.27 gts in Sy.No.5/AA situated in Damaracherla village of Chandrugonda Mandal in the erstwhile Khammam District (now in Bhadradri Kothagudem District) for contravention of provisions of the Land Transfer Regulation I of 1959 and its amended Regulation I of 1970. The Agency Divisional Officer, Kothagudem after conducting hearings disposed of the above LTR case No.171/97/CHG on 15.10.2003 and passed orders in the reference 1st read above, with the following findings:

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"The respondent is present and deposition is already available on record along with that of the Pattedar dated 27.8.2002 to the effect that they have purchased it 40 or 45 years ago without submitting any record therefor. It is the responsibility of the respondent to prove that he has not acquired the land in scheduled area in contravention of any law. Therefore, the ejection orders liable to be issued."

Accordingly, the Mandal Revenue Officer, Chandrugonda was directed to take over possession of the land to Government and assign to landless poor eligible tribals.

3. Aggrieved by the above orders, Sri Tanneru Venkateswarlu S/o Ramaiah R/o Maddukuru of Chandrugonda Mandal had filed Statutory Appeal before the Additional Agent to Government, Bhadrachalam where it was numbered as CMA No.9/2004. The Additional Agent to Government, Bhadrachalam had disposed the above Appeal on 18.11.2006 in the reference 2nd read above, with the following findings:

- i) Appellant is unable to mention date of purchase and simply wrote that "40" or "45" years back the schedule land was purchased. Along with the appeal he filed one white paper unstamped and alleged sale deed dated 10.04.66. If the petitioner who filed the alleged sale deed along with the appeals would have mentioned the correct date of sale in his appeal grounds. The appellant is unable and uncertain of the alleged sale.
- ii) Apart from this, the white paper sada sale which is unstamped and unregistered is inadmissible in evidence as it was held in CRP No.1087/96, dated 10.8.1998 in Bangaru Rama Thulisamma V/S Yada Masthan Reddy. He failed to file register document in register document in respect of sale transaction said to be made prior to promulgation of the L.T.R. provisions.
- iii) Appellant has also filed Pahani extracts for the years 1966-1967 and 1978-1979. In 1966-67 the appellant name is find place in enjoyer's columns in the record. It was not written the reasons regarding the nature of the enjoyment how he came into possession. Further he has not submitted further Pahani extracts for the later years i.e. 1967-68 to 1977-78.
- iv) In the Court opinion he may be tenant to Soma Raju Venkateswarlu he came into the possession of land to the alleged sale, it would have mentioned there. Therefore, the Appellant possession is not through the alleged sale. In the year 1978-79 Pahani also the same is continuing.
- v) As per Regulation, the Appellant who is the non-tribal must establish lawful possession prior to I of 1970 came into force. The Appellant failed to establish how he came into possession in the year 1966-67. So the continuing his possession after 1970 by the appellant is not lawful as per Regulation.
- vi) The other pahanies filed by the appellant from 1986-87 still show that Somaraju Venkata Laxmi Narasimha Rao as pattedar and present appellant as enjoyer. This is a sufficient proof that the present appellant is in possession of others patta land as enjoyer only.
- vii) In Rythu Pass Book also shows from 1970-71 onwards. The appellant is paying land revenue. The Rythu Pass Book and Land Revenue receipts filed by the appellant are no way support the case of the appellant. The petitioner not filed any valuable documents and failed to prove his rightful possession over the suit schedule land.
- viii) In view of the above mentioned reasons, the orders passed by the lower court on 15.10.2003 in LTR case No.171/97/CHG by Agency Divisional Officer, Kothagudem are upheld and accordingly appeal is dismissed."

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4. In the reference 3rd read above, aggrieved by the above orders of the Additional Agent to Government, Bhadrachalam dated 18.11.2006 in CMA No.9, the Revision Petitioner herein Sri Taneeru Venkateswarlu S/o Ramaiah R/o Maddukuru, Chandrugonda Mandal has filed the present Revision Petition along with Stay Petition before the Government urging the following grounds through his counsel M/s.K.Jagadishwar Reddy, Advocates:

- i) The ejectment order passed by the Courts below is illegal and against the principles of natural justice and liable to be set aside.
- ii) The petitioner is the owner and possessor of the appeal schedule land i.e. agricultural dry land to an extent of ac.2.27 gts in and out of Sy.No.5/AA situated at Damercherla village, Chandrugonda Mandal, Khammam District.
- iii) The petitioner herein had purchased the schedule property from the original pattedar prior to Regulation 1/1959 as amended by 1/70. From the date of purchase, the appellant has been in peaceful possession and enjoyment over the appeal schedule property with absolute rights of ownership over the property. The petitioner is having all relevant documents and has been paying land revenue to the Government.
- iv) The authorities below failed to follow the procedure and without giving any opportunity to the contest the case, passed ejectment exparte order on 15.10.2003 alleging that the petitioner failed to produce the recorded evidence and he entered the land by way of encroachment after APSALTR 1/59 read with 1/70 and came to wrong conclusion and directed the Mandal Revenue Officer, Chandrugonda directing to take over possession of the land to Government and assign to eligible poor tribals.
- v) The authorities below failed to see that the Respondent No.1 has not contested the issue and without any basis and without supplying relevant documents basing on which Show Cause Notice is issued which is in violation of principles of natural justice.
- vi) The Revenue Divisional Officer, Kothagudem is not Agency Divisional Officer as per APSA (LTR) Act, 1959 as amended. Hence, the order of lower authority is without jurisdiction.
- vii) The authorities below have not considered Revenue Records pertaining to the period prior to 1970 filed by the revision petitioner.
- viii) The other grounds will be urged at the time of hearing with the permission of the Hon'ble Court.

5. In the reference 4th read above, the Revision Petitioner has filed WP No.1281 of 2007 before the Hon'ble High Court of Judicature, Andhra Pradesh at Hyderabad praying "to issue a writ of mandamus or any other appropriate writ declaring the order dated 18.11.2006 in CMA No.9/2004 passed by Respondent No.2 confirming the order dated 15.10.2006 in LTR case No.171/97/CHG passed by the Respondent No.3 as against the principles of natural justice, illegal, arbitrary and unconstitutional and the action of the respondent No.1 in not passing any interim order on the stay petition or in appeal dated 20.01.2007 is illegal, arbitrary and unconstitutional". The Hon'ble High Court at the stage of admission made the following order on 23.1.2007 (operative part extracted):

- "3. As the revision is pending before the Government, I am of the opinion that it may not be just and proper to dispossess the petitioner from the said land pending disposal of the revision.

The writ petition is accordingly disposed of directing the first respondent to consider and dispose the revision filed by the petitioner against the order in CMA No.9 of 2004, after giving reasonable opportunity all the concerned pending the revision, the petitioner shall not be dispossessed. There shall be no order as to costs."

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6. In the reference 5th read above, Government has communicated copy of the Revision Petition to the Collector, Khammam District; Project Officer & Additional Agent to Government, Bhadrachalam; and the Special Deputy Collector, Bhadrachalam to send para-wise remarks and connected case records in the matter immediate, so as to dispose of the Revision Petition at Government level.

7. In the reference 6th read above, the Additional Agent to Government, Bhadrachalam has submitted the following para-wise remarks along with case record pertaining to the Appeal in CMA No.09/04. The gist of para-wise remarks is as under:

- i) Revision Petitioner stated that he purchased the schedule land 40 or 45 years back and filed one alleged sale deed dated 10.04.1964 which is unstamped and on white paper. He did not specifically mention the date of sale. The white paper sada sale is inadmissible in evidence as held by Hon'ble High Court in CRP No.1087/96 dated 10.8.1998 Bangaru Rama Tulasamma Vs Yada Masthan Reddy.
- ii) The land is situated in scheduled area and burden lies on the non-tribal Revision Petitioner to show that his possession is lawful and not in contravention of the Regulation.
- iii) If really the Revision Petitioner purchased the land in the year 1966 his name would have been recorded in Revenue records as well as pattedar and enjoyer even in pahanies 2002-03, his name is shown in enjoyers column only but not in pattadars column. Even after (36) years of alleged purchase his name not find place in pattadar column and it clearly shows that he is not pattadar of the land pattadar is SVL Narasimha Rao.
- iv) The Revenue Divisional Officer, Kothagudem is designated as Agency Divisional Officer and he is empowered to deal with LTR cases in scheduled area.
- v) The authorities below after due verification of revenue records pertaining to the period prior to 1970 passed orders. The Revision Petitioner has no case and failed to prove his lawful possession prior to 1970. The documents filed by him will not help to prove his case.

8. In the reference 7th& 9th read above, notices were issued to all the parties. Case was called on 26.02.2015, 03.12.2016, 04.02.2017, 25.03.2017, 29.04.2017, 17.06.2017 and finally on 07.11.2020.

On 07.11.2020, the Counsel for Revision Petitioner Sri S.R.Madhava Rao present and prayed for time for submission of written arguments. The Revenue Inspector O/o Tahsildar, Chandrugonda Mnadal present with the record.

9. The Counsel for Revision Petitioner has filed the following written arguments on 9.11.2020 on behalf of the Revision Petitioner:

- i) The father of the appellant i.e. Ramaiah was the Tenant of father of Respondent No.1 (SVL Narasimha Rao) in respect of the subject land from the year 1956 till 1966.
- ii) The father of Respondent No.1 i.e. Somaraju Venkateswara Rao transferred subject land in the year 1954 in the name of Respondent No.1 when the Respondent No.1 was minor (4 years age).
- iii) The father of Respondent i.e. Somaraju Venkateswara Rao sold the subject land for sale consideration of Rs.2675/- in favour of Appellant through sale deed dated 10.04.1966 i.e. prior to Regulation I of 1970. The original sale deed is already filed before the lower Court and part of record of the above matter.
- iv) As on 10.4.1966 i.e. as on said sale transaction the Respondent No.1 is minor. The father of Respondent No.1 i.e. Somaraju Venkateswara Rao died on 1.11.1998. The father of appellant i.e. Ramaiah also expired.

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- v) Since 10.04.1966 the appellant and his family is in peaceful possession and enjoyment of subject land with absolute legal rights and enjoying the same and eking out their livelihood and the appellant and his family is solely depended on the earnings of income of the subject land. The appellant is aged about 76 years and he has no other land except the subject land. The subject land is dry land it is akasavai land. The appellant is having lawful right, title, possession and interest over the subject land. Except the appellant nobody is having right over the subject land.
- vi) The name of appellant is entered in revenue records in respect of subject land. The Government after due procedure under the law in force has issued Pattedar Pass Book in favour of appellant. The appellant has filed Pattedar Pass Book, pahanies and cist receipts before the lower court and the same are part and parcel of the present case.
- vii) The lower court i.e. Revenue Divisional Officer, Kothagudem made Sri SVL Narasimha Rao as petitioner without his knowledge or consent in LTR case No./171/97/CHG. In fact the petitioner never made any application for enquiry. The Revenue Divisional Officer Kothagudem is not agency Divisional Officer as per APSA (LTR) Act 1959 as amended, hence the order of lower authority is without jurisdiction.
- viii) Neither the Appellant nor the Respondent No.1 violated any law. The order passed by the lower Court is against law and principles of natural justice. The authorities below have not considered the revenue records pertaining to the period prior to 1970 filed by the Revision Petitioner.
- ix) Since the very Government i.e. Pattedar Pass Book, pahanies and cist receipts prior to 1970 issued in favour of appellant, clearly proves that the appellant purchased the subject land and he is owner and possessor of subject land prior to 1970, the appellant has not specifically mentioned the date of sale deed. Prior to promulgation of LTR provisions, the name of appellant is recorded in revenue records. Therefore, the observations of lower Court are erroneous and baseless.
- x) The lower Court under assumptions and presumptions that appellant may be tenant of Shri Somaraju Venkateswara Rao came into possession of subject land. Though the revenue record in favour of appellant, the appellant proved that he acquired subject land prior to 1970 through sale deed as mentioned above. Therefore, the observation of lower court in this regard is erroneous and misconceived. The lower Court failed to consider that prior to 1970 the appellant acquired the subject land and the same is also recognized by the Government itself.
- xi) The appellant herewith filing the Affidavit executed by the Respondent No.1 herein stating that subject land is originally belongs to his father i.e. Somaraju Venkateswara Rao and he has sold the same to the appellant and that respondent No.1 has no right over the subject land. Therefore, the appellant is lawful owner of subject land entitled to continue his lawful rights and possession over the subject land.
- xii) For the above mentioned facts and circumstances, the reasoning of the lower court i.e. Project Officer, ITDA, Bhadrachalam for dismissing the appellant and passing ejectment order against the appellant is against law and liable to be set aside. Further the appellant has not contravened any of provisions since the said sale transaction is prior to 1970.
- xiii) Both the parties to the above said sale deed i.e. Somaraju Venkateswara Rao and the appellant are non-tribals and the said transaction took place prior to 1970 as stated above, prior to Regulation I of 1970 as such the transaction is perfectly valid and not hit by Regulation I of 1970 which came into force on 3.2.1970.

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- xiv) Since the Regulation I of 1970 has no retrospective in operation but prospective in operation as declared by the Hon'ble Supreme Court and the Hon'ble Court of AP hence the past transactions of transfers effected prior to 3.2.1970 between non-tribals remained untouched in view of the law declared by the Hon'ble Supreme Court. The full bench of the Hon'ble High Court of AP reported in 1981 (2) ALT page 23 and 1 of 1970 have no retrospective operation and do not affect transfers made prior to said regulation or its amendments came into force and the authorities under section 3 (2) of Regulation have no jurisdiction to pass orders in relation to the immovable property covered by such transfers.
- xv) Further in 1995 (6) SCC page No.545, the Hon'ble Supreme Court categorically held that the provision of 3 (1) of regulations are purely prospective in nature and do not affect past transactions of transfers effected between tribals and non-tribals in agency tracts at a time when neither Regulation I of 1959 or Regulation 2 of 1963 or Regulation I of 1970 was in force. Transactions like the above matter remained untouched by the sweep of the above said subsequent enacted regulations.
- xvi) In view of these citations of Hon'ble High Court of A.P. and Supreme Court that the regulation have no retrospective operation therefore, the said sale transaction which was took place on 10.4.1966 is not affected by the provisions of the said regulation 1 of 1959 as amended by regulation I of 1963 and 1 of 1970.
- xvii) The lower courts have jurisdiction to pass orders in respect of transfers made prior to coming into force of the regulation in Telangana area i.e. 1.12.1963. Even transactions made under unregistered sale deeds, authorities under the regulation have no power to go into the validity of such transfers as it is a matter for consideration by competent court in appropriate proceedings or forums. It is only for the appropriate Court to decide its validity and no such powers are conferred on the authorities under the regulations.
- xviii) The authorities have to see whether there are any transactions between the tribals and non-tribals or between non-tribals after commencement of the regulations and if they are hit by such regulation, then conduct enquiry and declare the same as void in terms of regulation.
- xix) The Hon'ble Court further held with regard to unregistered sale deed since the sada sale transactions are common and in vogue especially in the remote Telangana areas at long back i.e. 56 years.
- xx) The question whether transfers made prior to the coming into force of the amending reg. II of 1963 and I of 1970 are not valid either for want of registration under the provisions of regulation and compliance of provisions of Sec. 47, 50-B of the Hyderabad Tenancy and Agriculture Lands Act and whether the transferee would be entitled to the protection of Section 53-A of the transfer of property Act can only be gone into by a competent court, this Hon'ble court clarified the two issues and held namely:

Issue No.1: The regulation is prospective in operation and not retrospective in operation, therefore, do not affect transfers made prior to the said regulations came into force and the authorities under sec. 3 (2) of the regulation I of 59 have no jurisdiction to pass orders in relation to the immovable property situated in agency areas covered by such transfers. Therefore, the appellant herein filed the certified copies of pahanies in which name of the appellant recorded in 16th column as occupier and cultivator from 1966-67, 1978-79, 1986-87, 1997-98, 1999-2000 issued by Mandal Revenue Officer, Chandrugonda

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Mandal which would go to show that the appellant has been in peaceful possession and enjoyment of the appeals schedule property since 1966 onwards till today which was corroborated by the cist receipts 1969-70 upto 2003 issued by the revenue authorities.

Issue No.2:Sada Sale Deed. The validity or otherwise of the transfers made prior to Sec.3 (1) of its amendment by regulation – II of 1963 of I of 1970, coming into force, cannot be adjudicated upon under sec.3(2) of the regulation 1 of 1959 and the same has to be challenged in an appropriate forum constituted for deciding disputes relating to immovable property situated in scheduled area.

- xxi) The Hon'ble A.P. High Court full bench passed judgement reported in AIR 1982 AP page No.1 the Special Deputy Collector, Tribal Welfare and the District cum Agent to the State have no jurisdiction to pass orders under section 3 (2) of the said regulation declaring the said transfers as null and void.
- xxii) The lower Court failed to take into consideration the grounds and case laws filed by the appellant and came into wrong conclusion and hence the order passed by the lower court is liable to be set-aside.
- xxiii) In view of the above foregoing discussion and the law declared by the Hon'ble Supreme Court of India and the Hon'ble High Court of AP, the orders passed by the Hon'ble lower court in LTR case No.171/1997/CHG dated 15.10.2003 and CMA No.9/2004 will have no force of law and liable to be set aside for want of jurisdiction.

10. Along with the written arguments, the Counsel for Revision Petitioner has submitted the following documents:

- i) Written declarations dated 29.4.2017 by 1) AchanaPullaiah and 2) Banda Venkateswarlu R/o Damaracharla village, Chandrugonda Mandal – wherein he stated that he has some paddy field and beside it land of Tanneru Venkateswarlu exists. During his childhood i.e. when he was aged about 7 to 8 years he used to assist his father in farm-work and carry food to his father. When he was grown upto 15 years, he started ploughing his land. Since his childhood i.e. 7 to 8 years, the land adjacent to them is being cultivated by Tanneeru Venkateswarlu.
- ii) Hon'ble Supreme Court of India (from Andhra Pradesh) (F.B.) Deputy Collector V/S S. Venkata Ramanaiah – Date of Decision: 18 September, 1995 – Citation: 1995 LawSuit(SC) 904 – Hon'ble Judges: S.P.Bharucha, Faizanuddin, S.B.Majmudar – Case Type: Civil Appeal – Case No.2909 of 1977, 6 of 1991, 8422, 8423, 8424 of 1995:

Head Note:

ANDHRA PRADESH (SCHEDULED AREAS) LAND TRANSFER REGULATION, 1959 Section 3 (1) (a), 3 (2) (a), 9, 10 (1) – Bar on Transfer of immovable property situated in agency tracts – It was clear from the express language of the regulation that it was prospective in nature and even by necessary intendment it could not be posited that the farmer of the Regulation wanted to give it any retrospective effect. On conjoint reading of Section 3 (1) (a) and Section 3 (2) (a), it becomes clear that the Section seeks to hit the transfers affected after the Section came into force and possession only under such invalid transfers is sought to be dealt with for the purpose of eviction of transferees and restoration of possession to transferors, as the case may be, under Section 3 (2) (a) of the Regulation. Consequently the alternative submission of the counsel that even though transfer of the immovable property in the agency tracts may not be hit by Section 3 (1) (a) still possession under such transfers could be restored to the original transferor under Section 3 (2) cannot be countenanced Section 3 (2) (a), is a corollary to Section 3 (1) (a) and cannot have any independent role to play. In order to show that Section 3 had any implied retrospective effect the provisions pertaining to repeal and savings contained in Sections 9 and

10 would be of no assistance. Therefore, it cannot be said that the regulations have any implied retrospective effect which would nullify and confiscated pre-existing vested rights in favour of the concerned transferees transfers in whose favour the transfer had become final and binding. The provisions of Section 3 are therefore prospective in nature.

Judgement Text:-

- (2) In this group of matters a common question arises for our consideration. It is as under:

“Whether the provisions of the Andhra Pradesh (Scheduled Areas) Land Transfer Regulation 1959 (hereinafter referred to as ‘Regulation’) and the subsequent Regulation II of 1963 and Regulation No.1 of 1970 have retrospective effect and can affect transfers made prior to the coming into force of the said Regulations”.

Para 27. So far as Civil Appeal No.8424/95 arising out of SLP © No.2407 of 1986, is concerned, though the High Court had dismissed the writ petition on the ground of alternative remedy, in view of our decision on the main controversy and our finding that the provisions of the Regulation would not hit transaction of transfers entered into prior to coming into force of the Regulation this appeal is required to be allowed on merits. In the present case even though the sale was of the land situated in Adilabad District of Telangana region which was forming a part and parcel of the Agency tracts, as the transaction was of 3-6-1951, much prior to the coming into force of the Regulation I of 1959 as amended by Regulation II of 1963 which became effective in Adilabad from 31-12-1963, this transaction was outside the sweep of Section 3 (1) of the Regulation. Consequently no useful purpose would be served by relegating the appellant to the remedy of revision before the State authorities when this question is concluded by our present judgement. The appeal is accordingly allowed. The judgement of the Division Bench of the High Court and that of learned single Judge are set aside. Writ petition filed by the appellant before the High Court is allowed. The orders of the authorities below against the appellant passed under Section 3 (1) (a) read with Section 3 (2) (a) of the Regulation will stand quashed and set aside. As these appeals are being disposed of on a question of law and keeping in view the facts and circumstances of the cases, even though the appeals by the authorities are dismissed and the last appeal moved by T.Rajaiah arising out of SLP (C) No.2407 of 1986 is allowed, there will be no order as to costs in all these appeals.

Order accordingly.”

- iii) High Court of Andhra Pradesh (F.B) – GaddamNarsa Reddy V/S Collector, Adilabad District – Date of Decision: 21 August 1981 – Citation: 1981 LawSuit (AP) 70 – Hon’ble Judges: Ramachandra Rao, Raghuvir, Ramanujulu Naidu – Case No.4204 of 1977, 64, 68 and 231 of 1979, 151 of 1979 – Subject: Civil, Constitution, Property, Tenancy – Acts Referred: Constitution of India Art 244 (1), Transfer of Property Act, 1882 Sec 53A, Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 Sec 50B, Sec 47, Andhra Pradesh Scheduled Areas Land Transfer Regulations, 1959 Sec 3(2), Sec 3(1), Sec 3 – Final Decision: Petition allowed.

Para 1. The Writ Petition WP No.4204/77 has been referred to a Full Bench by learned brothers Madhava Rao and Raghuvir JJ in view of the conflict of decisions. The other matters have been directed to be posted along with WP No.4204/17 on the ground that common questions arise in all the matters. As the main case referred to the Full Bench is WP No.4204/77, we shall refer to the facts in that case to determine the questions that arise for consideration on this reference.

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Para 2. The dispute in relates to ac.3.12 cents in S.No.8, acs.0.17 cents in S.No.33 and acs.13.02 cents in S.No.34 of Nandgaon village situated in Adilabad Taluk, which is a scheduled area. The lands in S.Nos.33 and 34 were purchased under agreement of sale dated 10.5.1955 by Abdul Nadem, the third petitioner herein from one Jaithu, a member of the Scheduled Tribe. The petitioner 1 and 2 are said to be cultivating the said lands as tenants of the third petitioner. The land in S.No.8 was purchased under an agreement of sale dated 8.3.1963 by the brother of 1st petitioner from 4th respondent, the daughter of Jaithu. They filed petitioner before the Special Deputy Collector (TW), Adilabad alleging transfers of lands under agreements of sale contravene provisions of Section 3(1) of the Regulation. The Special Deputy Collector, Tribal Welfare, held that the transfer of the land in favour of the petitioners was not affected by a registered document as required by Sec. 17 of the Indian Registration Act, and that they did not acquire any title to the same, and that possession of the petitioners over the said lands was unlawful and un-authorised and accordingly directed the petitioners to be evicted from the lands and respondents 3 and 4 were directed to be put in possession. This order was confirmed on appeal by the Agent to Government, Adilabad.

It is contended on behalf of the petitioners that the provisions of Regulation I of 1959 came into force in Telangana area on 1.12.1963 and that it is not retrospective in operation and would not affect transfers made by the tribals to non-tribals prior to the coming into force of the said Regulation in Telangana area, and that even otherwise, the petitioners would be entitled to the protection of Section 53-A of the Transfer of Property Act and that the orders of eviction passed by Special Deputy Collector and the Collector are illegal and devoid of jurisdiction.

Para 17. The main contention of the learned counsel for the petitioners is that the provisions of Regulation I of 1959 which came into force in Telangana area on 1.12.1963 as subsequently amended by Regulation I of 1970 would not affect transfers made prior to 1.12.1963 or transfers between non-tribals made prior to 3.2.1970, and that, therefore, the Special Deputy Collector has no jurisdiction to declare such transfers as null and void under Section 3 (2) of the Regulation. It is also contended by the learned counsel that the Special Deputy Collector, Tribal Welfare has no jurisdiction to decide the question that in the absence of a permission for the transfer under Sec.47 of the Hyderabad Tenancy and Agricultural Lands Act and a Validation Certificate under Section 50-B of the said Act the transferees would not be entitled to the protection of Section 53-A of the Transfer of Property Act.

Para 29. If the provisions of Section 3(1) of the Regulation as amended are to be given retrospective effect, it will nullify transfers made prior to the coming into force of the said regulation as amended and would unsettle rights which had accrued and vested to the persons in possession under such transfers and would affect bonafide and innocent persons in possession of the lands under such transfers even if made in accordance with the provisions of law in force at the time of such transfers. Moreover, the decisions of this Court in Talluri Lakshmayya (supra), rendered on 24.9.1971, holding that the provisions of Section 3 (1) of the Regulation as amended by Regulation I of 1970 has no retrospective effect has been accepted and has not been challenged by way of an appeal and has become final, and no steps have also been taken to amend the said Regulation giving it retrospective effect, nor has any subsequent regulation made to give the provisions of Sec.3(1) of the Regulation I of 1959 as amended retrospective effect. We, therefore, hold that the provisions of Regulation I of 1963 and the provisions of Regulation I of 1970 amending the provisions of Section 3 (1) of Regulation I of 1959 have no retrospective operation and do not affect transfers made prior to the coming into force of the said amending regulations.

(Contd...10)

Para 30. The question whether transfers made prior to the coming into force of the amending regulation II of 1963 and I of 1970 are not valid either for want of registration under the Indian Registration Act or for non-compliance of the provisions of Section 47 or Sec.50-B of the Hyderabad Tenancy and Agricultural Lands Act and whether the transferee would be entitled to the protection of Section 53-A of the Transfer of Property Act, can only be gone into in a forum constituted for deciding such questions in respect of lands in Scheduled areas.

Para 31. (2) Section 3 (1) of the Regulation I of 1959 and its amendments by Regulation II of 1963 and I of 1970 have no retrospective operation and do not affect transfers made prior to the said regulation or its amendments coming into force and the authorities under Section 3 (2) of the Regulation have no jurisdiction to pass orders in relation to the immovable property covered by such transfers.

(3) The validity or otherwise of the transfers made prior to S.3 (1) or its amendments by Regulation II of 1963 or I of 1970, coming into force, cannot be adjudicated upon under S.3 (2) of the Regulation and the same has to be challenged in an appropriate forum constituted for deciding disputes relating to immovable property situated in Scheduled Areas.

Para 32. Applying the said conclusions to the facts of the present case, the transfers in WP No.4204/77 having been made prior to the coming into force of the Regulation, they do not contravene the provisions of Section 3 (1) and, therefore, the Special Deputy Collector, Tribal Welfare and the District Collector cum Agent to Government have no jurisdiction to pass orders under S.3 (2) of the said Regulation declaring the said transfers as null and void.

11. The Respondent No.1 Sri Somaraju Venkata Lakshmi Narasimha Rao S/o late Venkateswara Rao, aged: 72 years, occ: Agriculture R/o Damaracherla (v), Chandrugonda Mandal, Bhadradi Kothagudem District has submitted written declaration dated 7.11.2020 stating that he is submitting the written statement in compliance to Govt. Notice. His mother died when he was four years old and his father gave him some land into into Khasrapatta. He is also one elder sister and one younger sister. Marriage of elder sister was solemnized in the year 1961 and younger sister in the year 1966 – he was 17 years old then. Out of land which stood patta in his name in Sy.No.5/A was sold by his father to one Tanneru Venkateswarlu S/o Ramaiah for marriage expenditure of his younger sister in the year 1966 – he was 17 years old at that time. He never made any claims on this land nor has rights and never filed any petitions. He further stated that he worked as Patwari in the same village till 1983 and during his tenure as Patwari, Sri Tanneru Venkateswarlu regularly paid land revenue to the Government for which he issued cist receipts. He stated that all the above contents are true and fact and in proof of his age and the statement, he submitted xerox copy of his Aadhar Card duly signed by him. The Aadhar Card bearing No.5489 2169 7212 was issued by the UIDAI Government of India to Sri Somaraju Venkata Lakshmi Narasimharao – date of Birth: 17/12/1949, S/o Somaraju Venkateswar Rao, H.No.2-35, Divanam Veedhi, Damaracharla, Andhra Pradesh 507 166.

12. The lower authority i.e. Agency Divisional Officer, Kothagudem in his orders dated 15.10.2003 had rejected case of the revision petitioner on the ground that he had purchased it 40 or 45 years but did not submit any record.

13. The appellate authority i.e. Additional Agent to Government, Bhadrachalam had dismissed Appeal of the Revision Petitioner vide his orders dated 18.11.2006 concluding that i) the appellant filed unstamped and unregistered sale agreement dated 10.04.1966 which is not valid as per judgement in CRP No.1087/96, dated 10.8.1998 in Bangaru Rama Thulisamma vs Yada Masthan Reddy, ii) name of appellant found in enjoyers column in 1966-1967 and 1978-1979 but reasons not recorded in the said column as to how he came into possession; iii) other pahanies from 1986-87 still show SVL Narasimha Rao as pattedar and revision petitioner as enjoyer and iv) rythu pass book shows from 1970-71 onwards, appellant is paying land revenue and the cist receipts no way support case of the appellant.

(Contd...11)

14. Upon perusal of the evidences available on the case records and in view of the arguments advanced by the Counsel for Revision Petitioner supported by documentary evidences now the point that arise for adjudication before the Government is "Whether the land purchased by the Revision Petitioner Sri Tanneru Venkateswarlu S/o Ramaiah R/o Maddukuru of Chandrugonda Mandal for an extent of acs.2.27 gts in Sy.No.5/A situated in Damaracherla of Chandrugonda Mandal from its pattedar and Respondent No.1 herein Sri Somaraju Venkata Lakshmi Narasimha Rao before commencement of the Regulation I of 1970 through an agreement of sale dated 10.04.1966 is valid or not?"

15. Findings

As seen from the original sada agreement dated 10.4.1966 executed by Sri Somaraju Venkateswara Rao, S/o late Lakshminarayana R/o Damaracharla village of Kothagudem Taluq pattedar in favour of Sri Tanneeru Venkateswarlu S/o Ramaiah R/o Maddukuru village of Kothagudem Taluq – the land admeasuring acs.2.27 gts situated in Sy.No.5 was sold for a sale consideration of Rs.2,675/- @ Rs.1,000 per acre – witnessed by Sri Nallamothu Appaiah and Sri Nallamothu Muthaiah.

In support of the above sada sale agreement, the Appellant had submitted corroborating evidence i.e. certified copy of the Pahanies for the years 1966-67 and 1978-79 of Damaracharla village of wherein name of appellant (revision petitioner herein) was found recorded in column No.16 as enjoyer and also continued in subsequent pahanies.

The Receipt Book contain land revenue paid by the appellant i.e. revision petitioner herein from the year 1968-69 onwards. The printed cist receipts which contain signature of the Village Patwari i.e. Respondent No.3 herein also tallied with the signature on the declaration made by him now before the Government reciting sale of land by his father to the revision petitioner herein in the year 1966.

The Tahsildar, Kothagudem had also issued Rythu Pass Book to the Revision Petitioner herein in respect of the land under dispute long ago.

All these evidences corroborate and amply establish that the transaction in the case took place on 10.4.1966 i.e. before commencement of the Regulation I of 1970 which came into force from 3.2.1970.

16. Hence, in view of the above discussion and in the light of the settled legal positions of the Hon'ble Apex Court and the Hon'ble High Court as cited above, the transaction held on 10.4.1966 between the two non-tribals i.e. Somaraju Venkateswara Rao i.e. father of Respondent No.3 herein and the Revision Petitioner herein Sri Tanneru Venkateswarlu S/o Ramaiah in respect of land admeasuring acs.2.27 gts in Sy.No.5/A in Damacherla village of Chandrugonda Mandal, Bhadradi Kothagudem District (erstwhile Khammam District), is valid.

17. Government, therefore, after careful examination of the entire case, keeping in view above findings based on the contentions/written arguments, documentary evidences placed before by the Counsel for Revision Petitioner and placing reliance on the settled legal positions of the Hon'ble Apex Court and the Hon'ble High Court, hereby ALLOW the Revision Petition filed by Sri Tanneeru Venkateswarlu S/o Ramaiah R/o Maddukuru village, Chandrugonda Mandal of Bhadradi Kothagudem District (erstwhile Khammam District) in respect of the land admeasuring acs.2.27 gts in Sy.No.5/AA situated in Dameracherla village of Chandrugonda Mandal, Bhadradi Kothagudem District (erstwhile Khammam District) duly setting aside orders of the lower authority i.e. Agency Divisional Officer, Kothagudem in LTR case No.171/97/CHG, dated 15.10.2003 and appellate authority i.e. Additional Agent to Government, Bhadrachalam in CMA No.9/2004, dated 18.11.2006.

(Contd...12)

18. The Addl. Agent to Government & Project Officer, ITDA, Bhadrachalam Bhadradri Kothagudem District shall take necessary further action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr.CHRISTINA Z.CHONGTHU,
SECRETARY TO GOVERNMENT.

To

The Additional Agent to Government & Project Officer, ITDA, Bhadrachalam
Bhadradri Kothagudem District (By RPAD)

The Agency Divisional Officer, Kothagudem,
Bhadradri Kothagudem District (By RPAD)

Sri Taneeru Venkateswarlu, S/o Ramaiah, R/o Madukuru,
Chandragonda Mandal, Bhadradri Kothagudem District (By RPAD)

Sri S.V.L. Narasima Rao R/o Damaracherla
Chandragonda Mandal, Bhadradri Kothagudem District (By RPAD)

Copy to:-

The Agent to Government and District Collector,
Bhadradri Kothagudem District (By RPAD)

Sri S.R.Madhava Rao, Advocate
Flat No.301, South Block, Sri Garuda's Sai Meghana Towers
Mayuri Nagar, Miyapur, Hyderabad 500 049 (By RPAD)

The Tahsildar, Chandragonda Mandal
Bhadradri Kothagudem District (By RPAD)
(With a direction to serve the copy of GO to concerned parties).

The P.S to Hon'ble Minister (STW)

The P.A to Secretary (TW)

The P.A to Special Secretary (TW).

SC/SF.

//FORWARDED::BY ORDER//

SECTION OFFICER.